

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION



UNITED STATES OF AMERICA

v.

MONTELITO JOHNSON

No. 3:11-00002
JUDGE TRAUGER

MOTION TO CONTINUE TRIAL AND FOR A NEW
SCHEDULING ORDER FOR THE FILING OF PRETRIAL MOTION

COMES NOW the defendant, Montelito Johnson, through undersigned counsel, Mariah A. Wooten, First Assistant Public Defender, and respectfully requests that this Honorable Court enter an order granting his motion for a continuance of the trial presently set for October 16, 2012, at 9 a.m. and for a new scheduling order for the filing of pretrial motions. The reasons for this motion are set forth as follows:

1. Title 18, United States Code, Section 3161(h)(8)(A) provides, in pertinent part, that any period of delay resulting from a continuance granted on the basis of a court's findings that the ends of justice served by the granting of a continuance outweigh the best interest of the public and the defendant in a speedy trial shall be excluded in computing the time within which the trial must commence.

2. The factors which a judge shall consider in determining whether to grant a continuance are found in subsection 3161(h)(8)(B). One such factor is whether denial of a continuance would deny counsel for the defendant "the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Section 3161(h)(8) (iv).

3. A continuance of the trial is necessary in order for counsel to complete the ongoing investigation and to enable counsel to provide Mr. Johnson the effective assistance of counsel and to determine and prepare what, if any, pretrial motions need to be filed. The parties have earnestly attempted to settle this case.